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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,831	11/01/2000	Kiezo Yamada	NEC-F90/USA	1084

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EXAMINER

NGUYEN, VINH P

ART UNIT PAPER NUMBER

2829

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/702,831

Applicant(s)

YAMADA ET AL.

Examiner

VINH P NGUYEN

Art Unit

2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5-32,34 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. In the previous office action, claims 5-8,13 and 28-32 as well as claims 2-3,10-12,14-32 and 34-35 have been withdrawn from consideration since these claims are not read on elected species of figure 1. Furthermore, it also appears that the limitation of claim 9 do not have support in the elected species of figure 1, therefore this claim is also withdrawn from consideration along with claims 2-3,5-8,10-32 and 34-35.

2. In Applicants' remarks filed on 08/30/02, Applicants indicate that claim 1 is a generic claim. Examiner agrees with Applicants about this issue. However, other non-elected claims 2-3,5-8,10-32 and 34-35 are still withdrawn from consideration until generic claim is allowable, then these claims will be rejoined.

3. Claims 1,4 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear what **"an information related to a structure of the sample** in a depth direction on the basis of a difference in transmittivity of the electron beam for the sample when the latter is scanned with different acceleration voltages" represents. It appears that the information is related to the measured current from the ammeter (9).

The dependent claims not specifically address share the same indefiniteness as they depend from rejected base claims.

4. Claims 1,4 and 33are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is unclear from the specification how the “moving distance measuring device (8)” is used for measuring a moving distance of the movable stage (6) when this device is not connected to the moving stage (6).

Furthermore , it appears that the specification does not have support for the limitation of “means for obtaining **an information related to a structure of the sample** in adepth direction on the basis of a difference in transmittivity of the electron beam for the sample when the latter is scanned with different acceleration voltages” as recited in claim 1.

The dependent claims not specifically address share the same indefiniteness as they depend from rejected base claims.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of “means for obtaining **an information related to a structure of the sample** in adepth direction on the basis of a difference in transmittivity of the electron beam for the sample when the latter is scanned with

different acceleration voltages” as recited in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.


7. Claim 1 (insofar as understood) is rejected under 35 U.S.C. 102(b) as being anticipated by Yoshizawa et al (Pat 4,980,639).

As to claim 1, Yoshizawa disclose an apparatus for testing integrated circuit device having an electron beam irradiation means for irradiating a semiconductor device under test with an electron beam (EB), a current measuring means (39) for measuring current flowing through the semiconductor resulting from irradiation and data processing means (40,38) for processing measured data from the current measuring means (39). It appears that the electron beam

irradiation means of Yoshizawa et al has collimator means (26,32) and means (28,30,25,31) for changing an acceleration voltage of the electron beam.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VINH P. NGUYEN whose telephone number is (703) 305-4914.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4900.


VINH P. NGUYEN
PRIMARY EXAMINER
ART UNIT 2829
11/14/2002